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REMARKS

Introduction

Applicant believes that the claimed invention, as has been amended, is in condition for allowance. However, Applicant recognizes that the Examiner may be interpreting the primary prior art reference, Sharma (6,766,165), differently than Applicant. Applicant wishes to have this patent application be allowed as soon as possible, and is amenable to consideration of additional limitations added to the claims to render the claimed invention allowable to the Examiner's satisfaction. **To that end, the Examiner is very much respectfully requested to consider what additional limitations added to the claims would render the claimed invention allowable from his perspective, and to contact Applicant's representative, Michael Dryja, at the phone number listed below, with respect to these additional limitations.** Applicant believes that if the Examiner does this, it will save both Applicant and the Examiner considerable time and/or expense in having to have the present application be appealed.

Claim rejections under 35 USC 102

Introduction as to 35 USC 102 rejections

Claims 1-3, 6-15, and 19-20 have been rejected under 35 USC 102(e) as being anticipated by Sharma (6,766,165). Claims 1, 11, and 15 are independent claims, from which the remaining pending claims ultimately depend. Applicant submits that as amended, claims 1, 11, and 15 are patentable over Sharma, such that all of the claims are patentable over Sharma. Applicant discusses claim 1 as representative of the claimed invention insofar as patentability over Sharma is concerned.

In the previous preliminary amendment, Applicant had amended the claimed invention so that it is clear that each mobile wireless console *directly communicates wirelessly* with the resource being managed, *without communicating through any intermediary device between the*

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console and the resource. In the present response, Applicant has further amended the claimed invention so that it is clear that this resource being managed is “other than a network” – i.e., the resource itself is being managed, as opposed to, for instance, a network to which the resource is communicatively connected. Support for this amendment is found in the patent application as filed at least in FIG. 9 and its conjoining description, in which the server 102 can be a resource that is managed, where the server 102 is most definitely not a network, and thus is “other than a network.”

Summary of Applicant's previous arguments

In the previous preliminary amendment, Applicant had explained how in Sharma, the only device with which a mobile wireless capable device, such as the device 122 of FIG. 1, directly wirelessly communicates with is the network management server (NMS) 114. Applicant then explained how the NMS 114 is not, however, a resource that is managed, as in the claimed invention. For instance, Sharma states that the “network management server controls a network asset on a network,” where a “wireless transceiver is coupled to the network management server,” such that the “mobile wireless capable device communicates with the network management server via the wireless transceiver to manage the network asset and to administer the network.” (Col. 3, ll. 32-40) Thus, the crux of Applicant's argument is that the resource being managed in the claimed invention corresponds to a network asset in Sharma, where the mobile wireless capable device is able to manage this device by wirelessly communicating directly with the network management server, which then communicates with the network asset. By comparison, in the claimed invention, the mobile wireless console (i.e., corresponding to the mobile wireless capable device in Sharma) wirelessly communicates directly with the resource being managed, instead of with an intermediary network management server.

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Statement of Examiner's position in most recent office action

In response, the Examiner has stated in the most recent office action that the network management server in Sharma is in fact a resource as in the claimed invention that is managed. That is, the Examiner is saying that the mobile wireless console of Sharma (i.e., the mobile wireless capable device in Sharma's parlance) wirelessly directly communicates with the network management server in Sharma. Applicant agrees with the Examiner to this point. However, the Examiner is then saying that the network management server in Sharma is itself a resource that is managed. This is the point that Applicant disagrees on with the Examiner. If the network management server in Sharma is a resource that is managed, then the Examiner is correct, and Sharma anticipates the claimed invention. However, if the network management server is not a resource that is managed, then Applicant is correct, and Sharma does not anticipate the claimed invention.

Introduction as to why the Examiner's position is incorrect

Therefore, the remainder of this office action response argues why the network management server is not a resource that is managed. First, as indicated above, Sharma is clear that the network management server controls a network asset on a network, where the mobile wireless console of Sharma communicates with the network management server "to manage the network asset and to administer the network." (Col. 3, ll. 32-40) Therefore, from the clearest statements in Sharma, it is apparent that the resource being managed in Sharma is a "network asset" with which the wireless console device does *not* wirelessly communicate directly, in contradistinction to the claimed invention.

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Specific refutation of Examiner's position, sentence by sentence

However, the Examiner has stated that column 4, line 56, through column 5, line 13, of Sharma show that the network management server is indeed a resource being managed as in the claimed invention. Applicant goes through this excerpt of Sharma sentence by sentence, to show how this is not true, however.¹ First, Sharma states that "[t]he server [i.e., the network

¹ The Examiner has noted that he "has cited particular columns and line numbers in the reference as applied to the claims above for the convenience of the applicant." However, he states that "the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim," that it "is respectfully requested from the applicant in preparing responses to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner." (Office action. p. 9) Applicant understands this, and has taken the Examiner at face value. Indeed, if you consider Sharma in its entirety, then Applicant's interpretation of Sharma is the correct interpretation, since Sharma makes very clear that the network management server is to manage a network asset, where direct wireless communication is achieved only with the server, and not the network asset, as noted above. This clear interpretation of Sharma is found throughout the Sharma prior art reference, as described in more detail in the previously filed preliminary amendment. By comparison, the Examiner can at best only point to a single passage with Sharma that is very oblique, and does not state clearly that the network management server in Sharma is a resource that is managed in Sharma. Therefore, using the Examiner's own standards for prior art interpretation supports Applicant's view that you have to look at Sharma in its entirety, and if you do so, it is clear that the network management server is not a resource that is managed in Sharma. By comparison, the Examiner is not considering Sharma in its entirety, and instead is only looking at one very small portion of Sharma, which does not even state clearly that the network management server is an asset that is managed therein— thus the Examiner is contradicting the very advice that he is providing to Applicant, to look at the reference in its

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management server] presents network views and data specific to the network asset or assets of interest.” (Col. 4, ll. 56-57) This sentence supports Applicant’s contention that Sharma’s network management server is not a resource that is managed. Rather, this server presents views and data specific to the “network asset or assets” of interest that are to be managed. As previously noted, a network asset is different than the network management server in Sharma, since “the mobile wireless capable device communicates with the network management server . . . to manage the network asset.” (Col. 3, ll. 32-40)

Next, Sharma states that “[a] network administrator of the network management server may define multiple views of the same network defined on the basis of interest, security and activity.” (Col. 4, ll. 57-60) Here, Sharma states that a network administrator may use the network management server to define views of a given network, based on the interest in which that network is to be managed. However, Applicant has amended the claimed invention so that it is clear that the resource being managed is not a network itself – i.e., the resource is “other than a network.” Therefore, that Sharma allows a network administrator to manage a network via the network management server does not mean that Sharma anticipates the claimed invention in this respect.

entirety! Finally, Applicant notes that the Examiner’s citation of particular columns and line numbers is not merely for “the convenience of the applicant” as stated by the Examiner. Indeed, 37 CFR 1.106(b) notes that “[w]hen a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated *as nearly as practicable*.” Thus, the Examiner cannot get away with saying that Applicant should fully consider the reference in its entirety as “potentially teaching all or part of the claimed invention,” since it is the Examiner’s obligation to tell Applicant what portions of a reference that he is relying on. However, at the end of the day, if you do look at Sharma in its entirety, it is clear that it does *not* teach an important aspect of the claimed invention, as delineated in detail here.

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Third, Sharma states that “[a] roaming network technician logging onto the network management server through a mobile wireless capable device is presented the view of the network, including accessible devices and applications, in conforming with the security and administrative views set on the network management server.” (Col. 4, ll. 60-65) Here, it is clear that mobile wireless console in Sharma (the mobile wireless capable device) directly communicates wirelessly with the network management server. As such, the mobile wireless console is presented with the view of the network – but the resource being managed in the claimed invention is not a network. Further, the mobile wireless console is presented with accessible devices and applications that presumably can be managed. However, it is not clear from this statement alone that such devices include the network management server. That is, this excerpt of Sharma alone cannot serve to anticipate the claimed invention, because it is unclear what is meant by the phrase “devices” for instance. Therefore, to reasonably and broadly interpret Sharma in a correct manner, you have to look to other teachings of Sharma to see what is meant by this language. That is, you have to consider Sharma in its entirety, as Applicant has done. And, in fact, as noted above, Sharma is clear that such devices include network assets other than the network management server, since “[t]he mobile wireless capable devices communicates with the network management server . . . to manage the network asset” – not to manage the network management server itself. (Col. 3, ll. 38-40) Therefore, Sharma does not anticipate the claimed invention as to the aspect under consideration here.

Fourth, Sharma states that “[t]he system via the network management server presents to the mobile wireless capable device an extremely focused view to aid in network management, including troubleshooting, as necessary.” (Col. 4, l. 65, through col. 5, l. 1) Here, Sharma says that the network management server can be directly communicated with wirelessly to manage the network (i.e., network management). However, the claimed invention is directed to management of a resource “other than a network” – i.e., a resource that is not a network. Therefore, Sharma in this excerpt also does not anticipate the claimed invention in this respect.

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Fifth, Sharma states that “[n]etwork management applications on the network management server automatically communicate with the mobile wireless device over a secure channel to enable a network manager such as a roaming technician to monitor and manage the network.” (Col. 5, ll. 1-6) Here again Sharma says that the network management server can be directly communicated with wirelessly to manage the network. However, because the claimed invention is directed to management of a resource that is not a network, Sharma in this excerpt cannot anticipate the claimed invention in this respect.

Sixth, Sharma states that “[t]he network views can be associated with the actual geographical location and network topology around the location.” (Col. 5, ll. 6-8) This excerpt of Sharma is inapposite to the claimed invention, and does not say anything about the type of resource being managed in Sharma by direct wireless communicate with the network management server. That is, it does not say anything that the resource being managed in Sharma is the network management server itself. Therefore, this excerpt cannot be used to anticipate the claimed invention in this respect.

Finally, seventh, Sharma states that “[i]n a preferred embodiment, distributed wireless transceivers attached to a distributed or centralized system of network management servers enable a network manager to get access to the views, subject to user privileges, without having to drill down from a top-level complex network topology.” (Col. 5, ll. 8-13) This excerpt of Sharma, too, is inapposite to the claimed invention, and does not say anything about the type of resource being managed in Sharma. That is, it does not say that the resource being managed in Sharma is the network management server itself. Therefore, this excerpt also cannot be used to anticipate the claimed invention in this respect.

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Conclusion as to 35 USC 102 rejections

At the end of the day, then, we are left with the very clear statements throughout the entirety of Sharma as noted by Applicant in this office action response and in the previous preliminary amendment that Sharma provides for direct wireless communication with a network management server to manage a network asset.² Because the claimed invention is limited to direct wireless communicate with the resource being managed, Sharma cannot anticipate the claimed invention, since: (1) there is no direct wireless communication with the network asset in Sharma; and, (2) there is no management of the network management server.

The Examiner has stated that the network management server is indeed, however, managed in Sharma, and therefore can correspond to the resource of the claimed invention. In doing so, he has relied on column 4, line 56, through column 5, line 13 of Sharma. However, Applicant above has gone through this excerpt of Sharma sentence by sentence. In so doing, it is clear that at best the network itself is disclosed in Sharma as being managed in this excerpt, not the network management server itself. The claimed invention, however, is limited to management of a resource that is not a network. Therefore, this excerpt of Sharma does not anticipate the aspect of the claimed invention in which the resource being managed is the network management

² See, for instance, column 3, lines 25-40; column 3, lines 41-54; FIG. 1 (NMS 114 as compared to network resources 118 and 120); and, column 7, lines 2-8, which all support Applicant's contention that the network management server is not a resource that is managed in Sharma. That is, Applicant has gone through Sharma in its entirety, as advised by the Examiner, and has found that the network management server is not a network asset that is managed in Sharma. By comparison, the Examiner only points to a single portion of Sharma that does not directly or clearly say that the network management server is managed. Therefore, Applicant very respectfully asks the Examiner to consider which interpretation of Sharma is likely to be sustained on appeal – Applicant's, which has broad and *clear* support through the Sharma reference, or the Examiner's, which has limited and very *opaque* support.

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server itself. Therefore, it has not be shown that Sharma teaches direct wireless communication with a resource being managed, but rather simply teaches direct wireless communication with a network management server that in turn communicates with and provides for management of a resource other than the server -- a so-called network asset in Sharma. Upon consideration of Sharma in its entirety, it is clear that Sharma does not anticipate the claimed invention.

Conclusion

Applicants have made a diligent effort to place the pending claims in condition for allowance, and request that they so be allowed. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Applicants' Attorney so that such issues may be resolved as expeditiously as possible. For these reasons, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,



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Date

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